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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/766,107

01/27/2004

Sybrandus B.V. Munsterhuis

H0004178-0765

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7590

04/20/2006

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EXAMINER

PRICE, CARL D

ART UNIT

PAPER NUMBER

3749

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/766,107

Applicant(s)

MUNSTERHUIS, SYBRANDUS  
B.V.

Examiner

CARL D. PRICE

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33,35,37,43 and 44 is/are rejected.
- 7) ☒ Claim(s) 34,36 and 38-42 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

### **Claims: Rejected under 35 U.S.C. 102()**

Claims 17-23, 25, 26, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by US004770629 (Bohan, Jr.).

US004770629 (Bohan, Jr.) shows and discloses a method comprising using an output voltage potential from one thermal detection device (26) in thermal communication with a pilot flame (29) of a pilot burner (11) to supply power to a controller to power a pilot valve to allow

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gas flow to the pilot burner, wherein the only power used to power the controller is supplied by the one or more thermal detection devices. In regard to claim 18, in particular, power will cut to the controller when the pilot flame is extinguished since the thermal device will supply no power to the pilot burner valve. In regard to claims 19 and 25, electrically operated switch (52) is deemed the structural and functional equivalent to applicant's broadly claimed "selectable input device" for cutting power to the controller. In regard to claim 20-22, the controller operates an electric servo operator pilot valve (24) to power the pilot valve. In regard to claim 29, the integrated circuit (41) is the structural and functional equivalent to applicant's broadly claimed In regard to claim 30, the integrated circuit (41) is the structural and functional equivalent to applicant's broadly claimed microprocessor.

**Claims: Rejected under 35 U.S.C. 102(b)**

Claims 1-8, 13, 14, 32 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by US002601321 (Ray).

US002601321 (Ray) shows and disclose a method of using a controller to control gas flow to a pilot burner in fluid communication with a first pilot valve and a second pilot valve, comprising:

- using a selectable input device (17, 69) to open the first pilot valve (48, 50) to allow gas flow to the pilot burner (5);
- lighting the pilot burner (8) and heating one or more thermal detection devices (14) in thermal communication with the pilot burner, wherein the one or more thermal detection devices outputs a variable voltage potential;
- supplying the voltage potential from the one or more thermal detection devices to a controller (34) to power the second pilot valve to allow gas flow to the pilot burner;
- using the selectable input device to close the first pilot valve (see column 4, lines 65-71);

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- maintaining gas flow to the pilot burner through the second pilot valve (see column 4, lines 58-66);
- wherein the only voltage potential used to power the controller is supplied by the one or more thermal detection devices; and
- cutting power to the controller when the pilot flame is extinguished and stopping gas flow to the pilot burner when the power to the controller is cut (see column 5, line 35).

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims: Rejected under 35 U.S.C. 103(a)**

Claims 7-12, 15-31, 35, 37, 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over US002601321 (Ray) in view of US004866363 (Patton et al).

**US002601321 (Ray)** shows and discloses a method of using a controller to control gas flow to a pilot burner in fluid communication with a first pilot valve and a second pilot valve substantially as set forth in the claims.

**US002601321 (Ray)** shows and discloses the invention substantially as set forth in the claims with possible exception to:

- the selectable input device being coupled to a potentiometer that can output to the controller an indication of a position of the selectable input device;
- the controller comprises microprocessor; and
- wherein gas flow to the main burner will be stopped when the power to the controller is cut or when the main flame is extinguished.

**US004866363 (Patton et al)** teaches, form applicant's same burner control valve field of endeavor, operating a burner controller by means of a microprocessor and providing control actuators with potentiometer for the purpose of providing the microprocessor controller with information indicative of the position of control actuators.

In regard to claims 7-12, 15-31, 35, 37, 43 and 44, for the purpose of providing control actuators with potentiometer for the purpose of providing the microprocessor controller with information indicative of the position of control actuators, it would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the controller of actuators of **US002601321 (Ray)** to include control actuators with potentiometer for the purpose of providing a microprocessor controller with information indicative of the position of control actuators, in view of the teaching of **US004866363 (Patton et al)**.

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In regard to claim 8, 9, 11, 12 and 27, Official Notice is taken that it is well known in the burner control field of endeavor to cut power to main burner control valves in order to stop gas flow to prevent dangerous conditions within burner systems due to the build up of raw fuel gas. Also, in regard to claims 15 and 29, Official Notice is taken that it is well known in the art to provide necessary “power converter” means to modify voltage produce from thermal detection devices to be in a form suitable for interacting with various control components. Therefore, in regard to claims 8, 9, 11, 12 and 27, and claims 15 and 29, it would have been obvious to a person having ordinary skill in the art endeavor to modify **US002601321 (Ray)** to include means cut power to main burner control valves in order to stop gas flow to prevent dangerous conditions within burner systems due to the build up of raw fuel gas and to include necessary “power converter” means to modify voltage produce from thermal detection devices to be in a form suitable for interacting with various control components, in view of that which is well known in the art.

#### **Allowable Subject Matter**

Claims **34, 36 and 38-42** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Conclusion**

See the attached USPTO form 892 for prior art made of record and not relied upon which is considered pertinent to applicant's disclosure.

**USPTO CUSTOMER CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **CARL D. PRICE** whose telephone number is **(571) 272-4880**. The examiner can normally be reached on **Monday through Friday between 6:30am-3:00pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Ehud Gartenberg** can be reached on **(571) 272-4828**. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**CARL D. PRICE**  
**Primary Examiner**  
Art Unit 3749